

# EXHIBIT E



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March 2, 2021

***Via Electronic Mail***

Alison S. Vicks, Esq.  
Commercial Litigation Branch  
Civil Division  
Department of Justice  
P.O. Box 480  
Washington, D.C. 20044

**Re: The Portland Mint**

Dear Ms. Vicks:

Thank you for taking time to speak with us this morning. As we discussed, and made clear in our appeal letter, the Portland Mint cannot adequately appeal the Mint's determination that its August 2018 mutilated coin shipment was "counterfeit" without basic discovery. We are mindful that Judge Horn ordered the parties to engage in the administrative appeals process, and that discovery in that process is less robust than civil discovery, but the Government's discovery obligations assuredly extend beyond "none."

To that end, we again ask for two things. First, we need the test results and any associated report that supports the conclusions in the December 2020 determination letter. In that letter, Mr. Robidoux, on behalf of the Mint, wrote: "I have reviewed the test results and find that the testing sufficiently supports a conclusion that the coins [the Portland Mint] submitted in August 2018 were counterfeit." If the Portland Mint is to have a meaningful opportunity to challenge Mr. Robidoux's conclusions, we need access to the same test results he accessed. It is a matter of basic fairness. Second, we are entitled to know the fate of the Portland Mint's coins. The Portland Mint or its counsel has been asking the same question since August 2018: "Were the supposedly 'counterfeit' coins used to manufacture new coin roll?" If they were – and in light of the Mint's continued silence, we suspect that they were – the Portland Mint must know. It is directly relevant to its pending administrative appeal. The argument is simple. If the Portland Mint's coins were determined to be "counterfeit" in December 2020, then

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how did the Mint use those “counterfeit” coins in August 2018 to manufacture new coinage?

On our call, the Mint’s position was that its administrative appeals process does not allow for discovery, and no discovery would be provided to the Portland Mint. At this point, some 30 months after the Mint redeemed the Portland Mint’s coins, with a complaint pending in the Court of Federal Claims, and in light of last week’s status conference before the Court, we would ask the Mint to reconsider. If the appeal process is to be at all meaningful, the Portland Mint needs to know what happened to its coins, and must be able to review the “final report regarding [the Mint’s] investigation into the authenticity” of those coins, the conclusions from which featured so prominently in the Defendant’s Motion to Dismiss. (See Dkt.#21, Defendant’s Br. at 7, n.5). As we discussed, the Portland Mint is willing to enter into an appropriate protective order.

Please provide the Government’s position on the above two requests prior to Friday. The Government’s position will inform the administrative appeals process Plaintiff proposes to the Court. As we discussed, it was (and remains) our hope that we can reach an agreed-upon process for Her Honor’s review and consideration. Please let us know if you are open to further discussions.

Very truly yours,

/s/ Lee Vartan

Lee Vartan

cc: Sheila Barnett, Esq. (*via electronic mail*)  
Apryl Whitaker, Esq. (*via electronic mail*)